

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-168—sHB 6151

Labor and Public Employees Committee

Finance, Revenue and Bonding Committee

**AN ACT CONCERNING CERTAIN OPERATORS OF MOTOR
VEHICLES AND ELIGIBILITY FOR UNEMPLOYMENT BENEFITS**

SUMMARY: This act exempts certain professional truck drivers from coverage under the state's unemployment law. As exempted workers, these drivers do not accrue unemployment benefits for their service, and businesses using them are not required to pay unemployment taxes or meet the unemployment law's requirements, other than its record keeping requirements, for their service. The exemption applies to drivers who transport property under a contract with another party if the driver:

1. drives a vehicle with a gross vehicle weight rating over 10,000 pounds;
2. owns the vehicle or holds it under a "commercially reasonable" bona fide lease that is not with the contracting party or a related entity;
3. is paid based on factors that can include mileage-based rates, a percentage of any rate schedules, time spent driving, or a flat fee;
4. can refuse to work without consequence and can accept work from many contractors without consequence; and
5. is not considered an employee under the unemployment law's "ABC test."

When determining if a driver meets the ABC test, the act prohibits the labor commissioner from considering a driver an employee solely because the driver chooses to perform services only for the contracting party (see BACKGROUND).

Under the act, commercially reasonable means the lease, loan, or loan guarantee for the driver's vehicle has terms equal to those typically available for a retail trucking equipment lease or purchase in the state.

The act also prohibits the exemption from affecting any state income tax requirements.

EFFECTIVE DATE: October 1, 2013

BACKGROUND

ABC Test

Unemployment law presumes a worker to be an employer's employee unless the worker meets the ABC test's three requirements. The worker must

1. be free from the employer's control and direction (part A);
2. perform a service outside the employer's usual course of business or outside of all the employer's places or businesses (part B); and
3. be customarily engaged in an independently established trade, occupation, profession, or business of the same nature as the service being performed

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for the employer (part C).

By law, a worker can fail part C of the test if he or she provides services for only one employer. Workers who satisfy all three provisions of the ABC test are generally considered independent contractors exempt from the unemployment law.

OLR Tracking: LRH:RC:TA:RO